

**Senate File 267 - Introduced**

SENATE FILE 267

BY DANIELSON, McCOY, and BEALL

**A BILL FOR**

1 An Act relating to close clearances and safe spaces around  
2 railroad tracks and railroad facilities, and providing  
3 penalties and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 327F.10 Minimum clear space  
2 requirements for bridges, structures, poles, and other  
3 obstructions.

4 1. *Overhead clearances.*

5 a. The minimum overhead clearance above a railroad track  
6 that is used or proposed to be used for transporting freight  
7 cars shall be twenty-two feet, except as otherwise provided in  
8 this subsection.

9 b. The overhead clearance above the top rail of tracks  
10 located at the entrance to or inside a building may be  
11 less than twenty-two feet but not less than eighteen feet.  
12 However, if an overhead clearance of less than twenty-two  
13 feet exists above tracks inside a building, the movement of  
14 railway equipment shall be brought to a stop before entering  
15 the building. In switching movements requiring a number of  
16 entries, stopping is required only upon initial entry.

17 c. This subsection does not apply to electric wires or  
18 equipment required above tracks for the operation of trains by  
19 electric energy, provided that a carrier that conducts such an  
20 operation adopts and enforces rules which prohibit an employee  
21 from being on top of a rail car while the car is being operated  
22 under lower clearances than those provided in this subsection.

23 d. The overhead clearances provided in this subsection do  
24 not apply to engine houses, engine house facilities, tipples,  
25 or facilities used for servicing rail cars or for loading or  
26 unloading bulk commodities if compliance is not reasonably  
27 practicable.

28 e. The department of transportation may waive the  
29 requirements of this subsection for structures constructed  
30 before January 1, 2012, if the waiver will not adversely affect  
31 the safety of the public or employees of the railroad.

32 2. *Side clearances.*

33 a. The minimum side clearance from the center line of  
34 tangent railroad tracks that are used or proposed to be  
35 used for transporting freight cars shall conform with the

1 requirements of this subsection, except that structures,  
2 including platforms and tracks, constructed or under  
3 construction prior to January 1, 2012, may be maintained at  
4 clearances existing prior to that date, and may be extended at  
5 existing clearances unless such an extension is in connection  
6 with reconstruction of the original platform.

7     *b.* The minimum side clearance between the center line of  
8 the track and any structure or obstruction above the top of the  
9 rail, except structures or obstructions specifically exempted  
10 under this subsection, shall be twelve feet.

11     *c.* (1) A platform that is four feet or less above the top  
12 of the rail, except a platform adjacent to main or passing  
13 tracks, may be less than eight feet six inches from the center  
14 line of the track on one side of such track if a full clearance  
15 of at least eight feet six inches is maintained on the opposite  
16 side of the track or the distance from the center of the track  
17 to the center of the adjacent track is not less than fourteen  
18 feet.

19     (2) A platform that is four feet six inches or less above  
20 the top of the rail, if used principally for loading or  
21 unloading refrigerator cars, shall not be less than eight feet  
22 from the center line of the track.

23     (3) A low passenger platform that is eight inches or less  
24 above the top rail shall not be less than five feet one inch  
25 from the center line of the track. A high passenger platform  
26 that is four feet or less above the top rail shall not be less  
27 than five feet seven inches from the center line of the track.

28     (4) Platforms constructed before January 1, 2012, with less  
29 than the clearances prescribed in this paragraph "*c*" may be  
30 extended at such lesser clearances unless the extension is in  
31 connection with reconstruction of the original platform.

32     *d.* The side clearance, other than for platforms, on sidings  
33 only, at an entrance to a building or inside a building shall  
34 not be less than eight feet from the center line of the track.

35     *e.* Switchboxes, switch-operating mechanisms, and

1 accessories necessary for the control or operation of signals  
2 or interlockers projecting four inches or less above the top  
3 rail shall not be less than three feet from the center line of  
4 the track.

5 *f.* The center spindle of signal and switch stands three  
6 feet or less above the top of the rail and located between  
7 tracks, if not practicable to provide the clearances otherwise  
8 prescribed in this subsection, shall not be less than six feet  
9 from the center line of the track.

10 *g.* Through bridges supporting affected track, tunnels, water  
11 columns, or oil columns shall not be less than eight feet from  
12 the center line of the track, except where special protection  
13 is required for unusual commodities.

14 *h.* (1) The clearance for through bridges supporting  
15 affected track, water barrel platforms or refuge platforms on  
16 bridges or trestles not provided with walkways, handrails,  
17 water barrels, water columns, block signals, cattle guards,  
18 and stock chutes, if all or portions thereof are four feet or  
19 less above the top of the rail, may be decreased to the extent  
20 defined by a line extending diagonally upward from a point  
21 level with the top of the rail and five feet distant laterally  
22 from the center line of the track to a point four feet above  
23 the top of the rail and eight feet distant laterally from the  
24 center line of the track. However, the minimum clearance for  
25 handrails or water barrels on bridges with walkways shall be  
26 seven feet nine inches, and the minimum clearance for fences  
27 for cattle guards shall be six feet nine inches.

28 (2) The lesser clearances authorized in subparagraph (1)  
29 for handrails and water barrels do not apply to through bridges  
30 if the work of train workers or yard workers requires the  
31 workers to be on the decks of such bridges for the purpose of  
32 coupling or uncoupling cars in the performance of switching  
33 service on a switching lead.

34 *i.* The side clearances specified in this subsection do  
35 not apply to mail cranes when the arms of the mail cranes are

1 supporting mail sacks for delivery, if the top arm is not  
2 higher than ten feet eight inches above the top of the rail and  
3 neither arm extends within six feet five inches from the center  
4 line of the track.

5 *j.* Icing platforms and supports shall have a minimum side  
6 clearance of eight feet. Except in emergencies, operations  
7 over portions of track adjacent to icing platforms constructed  
8 before January 1, 2012, with a side clearance of less than  
9 eight feet shall be restricted to the movement or switching  
10 of trains containing refrigerator cars to be iced and to the  
11 necessary use of such tracks for the unloading of supplies  
12 required for the operation of an icing dock.

13 *k.* The side clearances specified in this section do not  
14 apply to the following:

15 (1) Intertrack fences located on the center line between  
16 tracks.

17 (2) Engine houses, engine house facilities, tipples, or  
18 facilities used for servicing rail cars or for loading or  
19 unloading bulk commodities if compliance is not reasonably  
20 practicable.

21 (3) Car retarders, derails, switch point protectors,  
22 guardrails, and similar appurtenances projecting three inches  
23 or less above the top of the rail.

24 *l.* The minimum side clearances prescribed in this subsection  
25 are for tangent tracks. Structures adjacent to curve tracks  
26 shall have additional minimum side clearances compensating for  
27 curvature.

28 *3. Overhead and side clearances.*

29 *a.* The overhead and side clearances prescribed in  
30 subsections 1 and 2 may be decreased to the extent of a line  
31 extending diagonally downward from a point four feet from the  
32 center line of the track and twenty-two feet above the top of  
33 the rail to a point eight feet from the center line of the track  
34 and sixteen feet above the top of the rail.

35 *b.* For tracks located at an entrance to or inside a

1 building with an overhead clearance of eighteen feet and a side  
2 clearance of eight feet, as prescribed in this section, the  
3 overhead and side clearances may be decreased to the extent of  
4 a line extending diagonally downward from a point four feet  
5 from the center line of the track and eighteen feet above the  
6 top of the rail to a point eight feet from the center line of  
7 the track and fourteen feet above the top of the rail.

8     *c.* A canopy at one side of the track at a freight platform  
9 may not be less than four feet from the center line of the  
10 track if the height of the canopy is at least seventeen feet  
11 six inches above the top of the rail and if the full clearance  
12 of eight feet six inches is maintained on the opposite side of  
13 the track or the distance from the center of the track to the  
14 center of the adjacent track is not less than fourteen feet.

15     *d.* A shelter over a platform used for passenger car  
16 operation may not be less than four feet six inches from the  
17 center line of the track if the height is not less than fifteen  
18 feet above the top of the rail, provided that a carrier that  
19 conducts such an operation adopts and enforces rules which  
20 prohibit an employee from riding on the side of equipment if  
21 standing above car floor height.

22     4. *Clearances between parallel tracks.*

23     *a.* The minimum distance between the center lines of parallel  
24 tracks shall be thirteen feet six inches for main tracks and  
25 thirteen feet six inches for yard and side tracks, except as  
26 otherwise provided in this subsection.

27     *b.* The center line of any track except a main track or a  
28 passing track, which is parallel and adjacent to a main track  
29 or a passing track, shall be fifteen feet from the center line  
30 of such main track or passing track, except that if a passing  
31 track is adjacent to and at least fifteen feet from the main  
32 track, such other track may be constructed adjacent to the  
33 passing track with a clearance of not less than thirteen feet  
34 six inches.

35     *c.* The center line of any ladder track which is parallel to

1 another adjacent track shall have a clearance of not less than  
2 eighteen feet from the center line of such other track, except  
3 that parallel ladder tracks shall have a clearance of not less  
4 than nineteen feet from center line to center line.

5 *d.* The minimum distance between the center line of parallel  
6 team and house tracks shall be thirteen feet six inches.

7 *e.* Tracks constructed or under construction prior to January  
8 1, 2012, may be extended without increasing the distances  
9 between tracks.

10 5. *Other conditions and obstructions adjacent to tracks.*

11 *a.* A railroad shall not knowingly permit merchandise,  
12 material, or other articles to remain piled or assembled on  
13 ground or platforms adjacent to any track at a distance of less  
14 than eight feet six inches from the center line of the track. A  
15 suitable line or other marker may be maintained at a distance  
16 of eight feet six inches from the center line of the track on  
17 all platforms, excluding passenger platforms, to indicate the  
18 space along the edge of the platform which must be kept clear  
19 of merchandise, material, or other articles.

20 *b.* The space between tracks ordinarily used by train  
21 workers, yard workers, and other employees as a walkway in  
22 the discharge of their duties, and the space beside such  
23 tracks within eight feet six inches of the center line of the  
24 tracks, shall be kept in reasonably suitable condition for such  
25 purpose.

26 6. *Preexisting clearances.* Except as otherwise provided  
27 in this section, if an overhead or side clearance between a  
28 track and any building, structure, or facility is less than the  
29 minimum prescribed in this section but existed prior to January  
30 1, 2012, the minimum clearances prescribed by this section  
31 shall be required when the building, structure, or facility is  
32 relocated or reconstructed. However, the department may grant  
33 specific requests for the continuance of prior clearances at  
34 reconstructed buildings, structures, or facilities as provided  
35 in subsection 7.

1     7. *Waivers.*

2     *a.* Nothing in this section shall be construed to restrict  
3 the temporary distribution of materials or the performance of  
4 work on, over, or adjacent to tracks if the distribution or  
5 performance is necessary in the construction or maintenance  
6 of facilities or equipment, provided that the distribution  
7 or performance is carried out within a reasonable time under  
8 conditions reasonably necessary to provide for the safety of  
9 all concerned, including proper notice by train order, message,  
10 or bulletin.

11    *b.* If, in any particular case, a waiver from any of the  
12 requirements of this section is deemed necessary by a carrier,  
13 the department, upon good cause shown, may grant an application  
14 by the carrier for a waiver. The request for the waiver shall  
15 be accompanied by a full statement of conditions existing and  
16 the reason why the waiver is necessary.

17    8. *Application of terms.* Wherever the terms "*railroad*",  
18 "*railroad track*", "*track*", "*building*", "*entrance to or inside*  
19 *a building*", "*structure*", "*facility*", "*platform*", or other  
20 similar terms are used in this section, the terms apply only to  
21 property owned by or leased to a common carrier railroad.

22    9. *Application of section.* This section shall not be  
23 construed as limiting the authority or jurisdiction of the  
24 department of transportation.

25    Sec. 2. NEW SECTION. 327F.11 **Safe space along railroad**  
26 **rights-of-way.**

27    1. For purposes of this section, "*safe space*" means the area  
28 encompassed within the following distances:

29    *a.* From the actual grade level to a distance of twenty-two  
30 feet six inches above the top of the rail head.

31    *b.* A distance of eight feet six inches on both sides of a  
32 perpendicular from the center line of a railroad track with a  
33 radius of not less than four hundred feet lateral curvature.

34    *c.* A distance of nine feet on both sides of a perpendicular  
35 from the center line of a railroad track with a radius of less

1 than four hundred feet curvature.

2 2. A person shall not permit scrap iron, lumber, debris,  
3 vegetation exceeding a height of four inches, marked unevenness  
4 of terrain, or any other material or condition which endangers  
5 a railroad employee to remain or continue in the safe space  
6 over which the person has control.

7 Sec. 3. NEW SECTION. **327F.12 Close clearance warnings.**

8 1. The owner of a railroad track shall place a warning  
9 device at a location where the close clearance between the  
10 track and a building, machinery, trees, brush, or other object  
11 is such that the building, machinery, trees, brush, or other  
12 object physically impedes a person who is lawfully riding the  
13 side of a train in the course of the person's duties in service  
14 to a railroad company from clearing the building, machinery,  
15 trees, brush, or other object.

16 2. The warning device shall be placed in a location which  
17 provides adequate notice to a person riding the side of a train  
18 so that the person may prepare for the close clearance. Any  
19 signs posted shall not be a danger to other persons working on  
20 the property.

21 3. Placement of a warning device pursuant to this section  
22 does not relieve the owner of a railroad track from any duties  
23 required under chapter 317 or section 327F.27.

24 Sec. 4. Section 327F.13, Code 2011, is amended by striking  
25 the section and inserting in lieu thereof the following:

26 **327F.13 Close clearances and safe spaces — enforcement.**

27 1. *Applicability of provisions.* The provisions of sections  
28 327F.10, 327F.11, and 327F.12 apply to matters under the  
29 purview of the state and enforceable by the department of  
30 transportation. Sections 327F.10, 327F.11, and 327F.12 do not  
31 apply to the exercise of authority which a federal agency has  
32 delegated to state enforcement personnel under section 206 of  
33 the federal Railroad Safety Act of 1970, 49 U.S.C. § 20106, or  
34 any other regulation or requirement preempted by federal law.

35 2. *Emergency orders.* If an inspector authorized by

1 the department determines through testing, inspection,  
2 investigation, or research that a locomotive, car, or other  
3 facility or equipment of a railroad is in a condition that  
4 violates a law, regulation, or order which the department is  
5 authorized to enforce, and the condition is so hazardous as to  
6 present an imminent danger or potential danger likely to result  
7 in injury to a person, damage to property, or a breakdown of  
8 equipment, the inspector shall declare such locomotive, car, or  
9 other facility "out of service".

10 3. *Action by inspector.* When an inspector authorized by  
11 the department declares a locomotive, car, or other facility  
12 to be "out of service", the inspector shall affix an "out of  
13 service" notice in a prominent place on the locomotive, car,  
14 or other facility. The affixing of an "out of service" notice  
15 shall constitute legal notice that the locomotive, car, or  
16 facility shall not be used or operated until all defects noted  
17 on the "out of service" notice have been repaired. Such notice  
18 shall not be removed until the defects noted by the inspector  
19 have been corrected by the railroad company and the locomotive,  
20 car, or other facility is in full compliance with applicable  
21 regulations. In the case of a track or other facility for  
22 which it is not practical to affix an "out of service" notice,  
23 the inspector shall furnish immediate telephone or telegraphic  
24 notification to the owner of the track or facility in lieu of  
25 affixing an "out of service" notice, describing the specific  
26 location of the affected track or other facility, the nature of  
27 the defect, and related conditions. When an "out of service"  
28 notice has been affixed or the owner of the track has been  
29 notified, the inspector shall furnish notice by the most  
30 expeditious manner to the railroad immediately responsible for  
31 the operation of the defective locomotive, car, track, or other  
32 facility. The notice shall indicate the nature of the defects  
33 involved which caused the equipment or other facility to be  
34 placed "out of service". The inspector shall retain one copy  
35 of the notice and immediately forward one copy of the notice

1 to the department.

2     4. *Reduction in maximum speed of track.* When an inspector  
3 authorized by the department determines the existence of a  
4 hazardous local track condition, the inspector shall furnish  
5 immediate telephone or telegraphic notification to the owner  
6 of the track that movements within defined limits of the track  
7 must be made at a reduced maximum speed, which shall be the  
8 speed applicable to the highest federal railroad administration  
9 class designation that the inspector determines is appropriate.  
10 Within forty-eight hours following the notification, the  
11 inspector shall furnish notice in duplicate to the owner of the  
12 track or to the owner's agent immediately responsible for the  
13 affected track. The notice shall indicate the full particulars  
14 of the conditions and the violations which create the local  
15 safety hazard. Such conditions or violations shall be fully  
16 repaired or otherwise brought into compliance with the highest  
17 federal railroad administration designation applicable to the  
18 speed at which trains will operate on the track in question.

19     5. *Action by railroad.* When a locomotive, car, or other  
20 facility of a railroad has been declared "out of service", the  
21 locomotive, car, or facility shall be removed from service  
22 until the defect or defects are corrected. In the case of  
23 track which is reduced in class as provided in subsection  
24 4, the railroad shall take the steps necessary to insure  
25 compliance with the findings of the inspector. For the purpose  
26 of making necessary corrections, defective locomotive units,  
27 freight cars, cabin cars, or passenger carrying cars may  
28 be moved to the nearest available point where the unit can  
29 be repaired, provided that other similar units in suitable  
30 operating condition are also a part of the consist. When the  
31 defects noted on the notice have been corrected, the railroad  
32 shall notify the inspector issuing the notice and the inspector  
33 shall inspect the locomotive, car, or other facility. If the  
34 repairs or corrections have been satisfactorily completed, the  
35 inspector shall remove the "out of service" notice.

1     6. *Reinspection — review by department.*

2     a. Upon issuance of an "out of service" notice, the  
3 railroad involved may request a second inspection of the  
4 locomotive, car, or other facility. An engineer designated  
5 by the department shall arrange for an immediate reinspection  
6 by a second authorized inspector. If, on reinspection, the  
7 decision of the original inspector is affirmed or modified  
8 by an engineer designated by the department, the engineer  
9 shall notify the railroad in writing that the original finding  
10 is affirmed or modified. If the decision of the original  
11 inspector is not affirmed or modified, the inspector shall  
12 immediately remove the "out of service" notice and enter an  
13 appropriate notation on the related notice to the railroad, and  
14 the restrictions of the notice shall cease to be effective.

15     b. If, upon reinspection, an engineer designated by the  
16 department affirms or modifies the findings of the original  
17 inspection, the railroad may, within thirty days of the  
18 affirmation or modification, request the department to conduct  
19 a hearing at which interested parties may be present and  
20 testify for the purpose of reviewing the inspections. As a  
21 result of the hearing, the department may modify in whole  
22 or in part the findings of the inspections and the actions  
23 taken by the inspectors. Actions on review may be undertaken  
24 on an expedited basis in relation to other business of the  
25 department.

26     c. The requirements of an "out of service" notice shall be  
27 effective pending action by the department.

28     d. Upon petition of a carrier based upon good cause, the  
29 department may grant a request for an extension of time for  
30 compliance with an "out of service" notice issued or modified  
31 as provided under this subsection.

32     7. *Penalties.*

33     a. A violation of section 327F.10, 327F.11, or 327F.12 is  
34 punishable as a schedule "one" penalty under section 327C.5.

35     b. A violation of this section shall subject the violator to



1 point projectors, guardrails, or similar appurtenances; and  
2 curve tracks. Structures constructed or under construction  
3 prior to January 1, 2012, may be maintained and extended at  
4 existing clearances, except in connection with reconstruction  
5 of the original platform.

6 The bill provides specific formulas for the modification of  
7 overhead and side clearances in relation to one another.

8 The bill establishes a minimum distance of 13 feet six  
9 inches between the center lines of parallel tracks, and the  
10 same required distance for yard and side tracks. Specific  
11 requirements for main tracks and passing tracks, ladder tracks,  
12 and parallel team and house tracks are detailed in the bill.  
13 However, tracks constructed or under construction prior to  
14 January 1, 2012, may be extended with the existing distances  
15 between tracks.

16 The department of transportation is authorized to grant  
17 waivers from any of the clearance requirements upon the request  
18 of a carrier and upon a showing of good cause.

19 SAFE SPACES. The bill defines "safe space" as the area from  
20 the grade level to a distance of 22 feet six inches above the  
21 top of the head rail; a distance of eight feet six inches on  
22 both sides of a perpendicular from the center line of a track  
23 with a radius of not less than 400 feet lateral curvature; and  
24 a distance of nine feet on both sides of a perpendicular from  
25 the center line of a track with a radius of less than 400 feet  
26 lateral curvature. Safe spaces are required to be kept free of  
27 scrap iron, lumber, debris, vegetation higher than four inches,  
28 markedly uneven terrain, or any other material or condition  
29 which endangers employees.

30 CLOSE CLEARANCE WARNING DEVICES. The bill retains current  
31 requirements for the owner of a railroad track to place a  
32 warning device at a location where a close clearance between  
33 a train and a building or other object might physically  
34 impede a person lawfully riding on the side of a train from  
35 clearing the building or object. The bill applies the close

1 clearance warning requirements to situations where a person is  
2 lawfully riding on the side of a cut of cars. Under current  
3 law, requirements for close clearance warning devices only  
4 apply to locations specified in rules by the department of  
5 transportation when funds are available to reimburse the owner  
6 of a railroad track for the cost of the close clearance warning  
7 device. The bill strikes that applicability provision.

8 ENFORCEMENT. The bill states that the close clearance  
9 and safe spaces requirements in the bill apply only to  
10 matters under the purview of the state and enforceable by the  
11 department of transportation, and do not apply to the exercise  
12 of the authority delegated to state enforcement personnel  
13 pursuant to federal law.

14 The bill provides that an inspector authorized by the  
15 department may declare a locomotive, car, or other facility  
16 to be "out of service" if it is found to be in a condition  
17 that poses a danger to a person or property or might cause  
18 a breakdown of equipment. In the case of a track or other  
19 facility where it is not practical to post a notice, a  
20 telephone or telegraphic notification to the owner of  
21 the affected track or facility may be substituted. The  
22 inspector must also furnish notice to the railroad immediately  
23 responsible for operation of the defective locomotive, car,  
24 track, or other facility, send a copy of the notice to the  
25 department, and retain one copy.

26 If an inspector determines the existence of a hazardous  
27 local track condition, the inspector is required to order a  
28 reduction in the maximum speed of a track, with notice to the  
29 owner of the track or the owner's agent.

30 The bill outlines the process for a railroad to make  
31 required repairs to defective track, locomotives, cars, or  
32 other facilities, bringing them into compliance with applicable  
33 regulations and resulting in removal of an "out of service"  
34 notice or a restriction on maximum speed imposed by an  
35 inspector.

1     When an "out of service" notice is issued, a railroad may  
2 request a second inspection and, if the second inspection  
3 does not affirm or modify the findings of the original  
4 investigation, the second inspector must immediately remove  
5 the "out of service" notice, which ceases to be effective.  
6 If the findings of the original inspection are affirmed or  
7 modified, the railroad may, within 30 days, request a hearing  
8 with the department. The bill specifies that actions on review  
9 may be prioritized by the department according to the needs  
10 of the department's schedule. However, the requirements of  
11 an "out of service" notice remain effective pending action  
12 by the department. The department is authorized to grant a  
13 request for an extension of time for compliance with an "out of  
14 service" order upon petition of a carrier based on good cause.

15     The bill provides that violations of close clearance,  
16 safe space, and close clearance warning requirements are  
17 punishable by a schedule "one" penalty under the penalty  
18 schedule applicable to carriers. A schedule "one" penalty is a  
19 \$100 fine. Violations of enforcement provisions may subject  
20 the violator to such penalties as may be provided by other  
21 law. Each day of noncompliance with the requirements of the  
22 bill constitutes a separate violation. If a locomotive or car  
23 which was properly equipped by a carrier subsequently becomes  
24 defective or insecure, it may be hauled to a nearby location  
25 for repair, and the penalties imposed by the bill do not apply.

26     The bill requires the department of transportation to adopt  
27 rules it deems necessary for implementation of the bill.

28     The bill takes effect January 1, 2012.